

**Cost Recovery Amendment
to the
Atlantic Surfclam and
Ocean Quahog Fishery
Management Plan**

February 2015





Amendment Timeline

- Public comment period and hearings (completed)
- Today - Review comments; Select preferred measures; Consider final approval/submission to NMFS
- Rulemaking and implementation (longer for this type of action)
- Final rule by Jan. 1, 2016

Today

- History of amendment
- Reviews alternatives (3 issues)
- Overview of public comment
- Review staff recommendations





History of Amendment

- **1990:** ITQs went into place for SCOQ
- **1996:** MSA requires NOAA Fisheries to recover “actual costs directly related to the management, data collection, and enforcement” of any Individual Fishing Quota Program
- **2005:** GAO Report noted that costs not being recovered
- **2006:** Letter from Regional Administrator to establish ITQ Cost Recovery Committee

History of Amendment

- **2007:** MSA language requiring cost recovery tweaked from “Individual Fishing Quota” to “Limited Access Privilege Program”
- **2008-2009:** FMAT formed;
 - Amendment 14 initiated to address cost recovery, excess shares, and EFH;
 - 2 letters from Regional Administrator on costs to be recovered
- **2011:** SBRM took Amendment #14; ACL/AM Amendment took #16

History of Amendment

- **2012:** SCOQ Committee discussed Amendment 15.
- Split into 3 parts:
 - Cost recovery, EFH, and quahog reference points
 - Request NMFS develop data collection program (rulemaking)
 - Excessive Shares

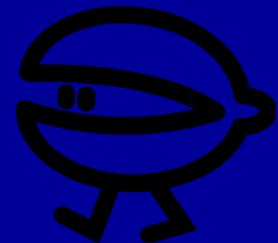


History of Amendment

- **2013:** Council voted to reform FMAT and address Cost Recovery, BRPs, Optimum Yield Range, and EFH
- **2014:**
 - Spring: FMAT developed alternatives (met 3 times)
 - June: Committee reviewed alternatives
 - October: Council reviewed draft Amendment; removed EFH; voted to take out to public hearings
 - December-January: Public hearings and comment period

Cost Recovery Draft Alternatives

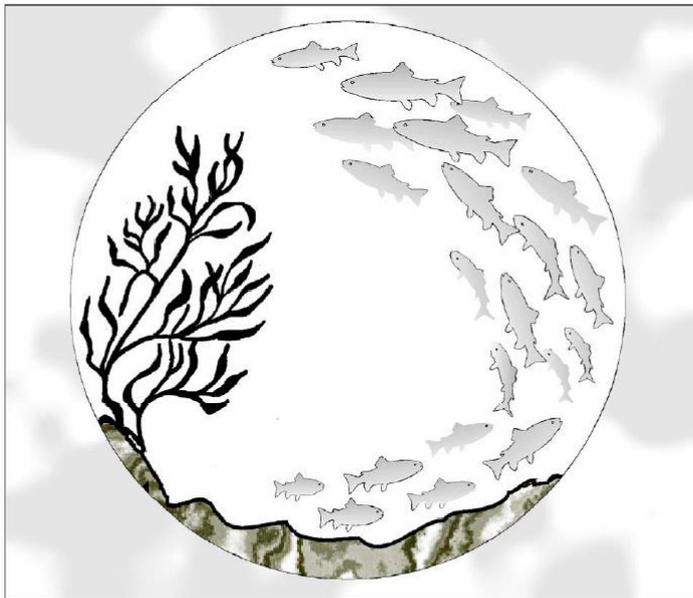
- ❑ **1: No Action/Status Quo - No cost recovery**
- ❑ **2: ITQ tag holder pays via dealer**
- ❑ **3: ITQ shareholder and tag holder pays; "two-tiered approach"**
- ❑ **4: Shareholder pays; equal fee per share**
- ❑ **5: Shareholder pays; "tilefish model"**



Alternative 1 (No action - No Cost Recovery)



Magnuson-Stevens Fishery Conservation and Management Act



- Contrary to Congressional mandate in MSA to collect these fees for Limited Access Privilege Programs

Alternatives 2-5

Action Alternatives	Who Pays	Who submits payment to NOAA Fisheries?	Fee applied to fished or unfished ITQ?
Alternative 2 (ITQ tag holder pays via a federally permitted dealer)	Tag holder pays dealer at landing	Dealer	Only fished ITQ shares/quota
Alternative 3 (ITQ shareholder and tag holder pays; two-tiered approach)	Shareholder pays portion of fee; Remainder of fee paid by tag holder to dealer at landing;	Shareholder submits portion & Dealer submits portion	Both; two-tiers
Alternative 4 (Shareholder pays directly; equal fee per share)	Shareholder	Shareholder	Both; equal fee per share owned
Alternative 5 (Shareholder pays; tilefish model)	Shareholder	Shareholder	Only fished ITQ shares/quota

Provisions that Apply to All Alternatives

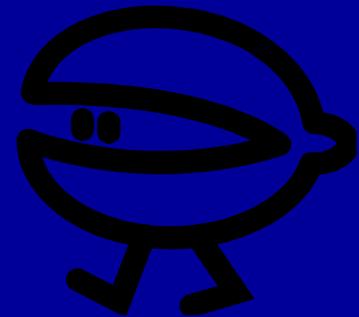
- Maximum percent fee is 3-percent
- Fees collected deposited in LASAF fund
- Separate accounts to ensure the funds only pay for SCOQ ITQ Programs
- Annual ITQ report generated

Provisions that Apply to All Alternatives

- Ex-vessel value is sum of all payments
- NMFS will mail bill for fees (end of year/last quarter; payments made electronically)
- NMFS will estimate % fee for first year based on prior year costs
- RA will adjust fee; notice the fee each year

Administrative Mechanism to Update Biological Reference Points Alternatives

- ❑ **1: No Action**
- ❑ **2: Redefine Status Determination Criteria**



Alternative 1 and 2

- Alternative 1 (No action/status quo) – stock status determination criteria (aka BRPs) must be updated using Amendment
- Alternative 2 would create an admin. process by which BRPs are updated in FMP
- Council basically says under alt. 2 that:
 - If BRPs are consistent with NS1 and 2; and,
 - Meet peer review criteria,
 - Then automatically go into FMP

Alternative 2

- No associated regulations, just FMP text
- Describes NS1 guidelines for MFMT and MSST definitions
- Describes peer review that is considered acceptable; acknowledges SAW/SARC
- Updates FMP with reference points already being used as part of specifications process

Optimum Yield (OY) Range Alternatives

- ❑ **1: No Action**
- ❑ **2: Remove OY Range from FMP; Advisors Recommend**
- ❑ **3: Link upper end of OY Range to ABC**



Alternative 1 (No action)

- Council bound to setting commercial quotas within OY ranges; developed in 1980's
- Surfclam OY range from 1.85 - 3.40 million bushels or 14,265 - 26,218 mt
- Ocean quahog OY range from 4.00 - 6.00 million bushels or 18,144 - 27,216 mt
- SCOQ plan is only plan with OY ranges

Alternative 1 (No action)

- To set quotas higher than upper bound of OY ranges, must do Framework (takes up to 1 year)
- Quotas can be lower than the lower bound of OY ranges if SSC sets ABC lower
- Therefore, ABC and quotas can be lower than OY in plan, only if SSC sets lower

Alternative 2 (Eliminate the OY Range)

- Eliminate OY range from FMPs
- Advisors recommend OY to Council as part of specs process (e.g., FPRs)
- Current catch limit system (ABCs, ACL, Quotas, etc.) in place continues as is
- Nothing precludes Council from setting commercial quotas similar to present if less than ABC

Alternative 3



(Link Upper OY Range to ABC Recommendations)

- Upper end of OY range would be equal to ABC; no change to lower end of range
- Quotas can be less than range only if ABC set by SSC is less than range
- Alt. 3 links top of range to ABC, but..
- Sill potential for ABC and quotas to be less than OY range

Public Comment

- Comment Period: December 15, 2014 – January 16, 2015
- Written Comments: 7 during comment period + 1 prior to period



Public Comment

- 4 Public Hearings: RI, NJ, MD, and a webinar
- Attendance: 17 in attendance at 4 hearings; 13 individuals (i.e., some people attended more than 1 hearing).



General Common Themes

- SCOQ fisheries are best managed fisheries in the world
- These fisheries are unique from other fisheries
- No need for additional regulation in this fishery; already well managed
- Stability is very important in fishery; important for things not to change frequently or quickly
- This Amendment is not needed

Cost Recovery Themes

- There were cost savings when the individual transferrable quota (ITQ) system was implemented
- The costs evaluation should include a pre- and post-ITQ evaluation of costs
- Recommend no action on cost recovery alternatives
- If action is taken, then Alternative 4 (equal fee per share) would be next best to no action because it would be most efficient

BRP Mechanism Themes

- No need to change mechanism; fishery wants stability
- No need to speedily update biological reference points
- Dangerous decision-making could result



BRP Mechanism Themes



- Surfclams and quahogs are long-lived; rapid updates are not needed

- National Standards 1 and 2 have greater significance



- Recommend no action on the biological reference points mechanism

OY Range Themes

- Industry prefers that OY ranges stay in place
- SCOQ fishery is unique; does not consider fact that other Council-managed fisheries do not use these ranges as a reason not to retain
- Stability is important, and these ranges contribute to stability and predictability

OY Range Themes

- Lower-end of the OY range can be set as low as zero if ABC is set below range; industry does not want upper end of OY range to change
- Recommendation for no action on the OY ranges



Staff Recommendations: Cost Recovery

- Alternative 5
- Only those shareholders (permanent ITQ allocation holders) whose quota are used to land surfclams and ocean quahogs would pay the fee to NMFS
- Shareholders with quota that is not landed, would not pay
- Same cost recovery process as Council's tilefish IFQ; same as in other fisheries around the country

Staff Recommendations: Cost Recovery

- Fee would not be applied to an unproductive asset
- There is no cash flow on an unproductive asset; its not being gainfully employed
- Recovering costs on an unproductive asset could promote additional consolidation in fishery



Staff Recommendations: Admin. Mechanism to Update BRPs

- Alternative 2 (Redefine the Status Determination Criteria)
- Allows BRPs to be automatically updated without need for FMP Amendment if certain criteria are met
- Intended to streamline the process
- Keep the FMP updated with what is already be done through specifications



Staff Recommendations: Optimum Yield Range

- Alternative 2 (Remove OY Range from FMP; Advisors Develop Recommendations for OY during Specifications)
- OY ranges removed from FMP; advisors recommend OY to Council during specs (FPRs?)
- Streamline process and bring into consistency with other Council FMPs
- Prevent need for framework to modify range

Staff Recommendations: Optimum Yield Range

- Prevent inconsistency with concept of OY and ABC at lower end of range
- Avoids confusion as to what the Council can and cannot do when setting quotas relative to the OY range



Questions?

